

Corporation Sole

How to Incorporate

a Step-by-step summary



Prepared by the Utah Division of Corporations and Commercial Code

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Corporations Sole

What is a corporation sole?

A corporation sole is "[a] series of successive persons holding an office...such as kings, bishops, rectors, vicars, and the like." Black's Law Dictionary 342 (7th ed. 1999). It consists of a person and his progeny in a particular station, who are incorporated by law for the purpose of obtaining some legal capacities and advantages, such as perpetuity, that the persons would not otherwise have.

A corporation sole need not file annual reports with the Division of Corporations and Commercial Code, and can only be dissolved voluntarily. Once the articles of incorporation have been filed, the corporation sole has the power to buy, sell, and maintain property; enter into contracts; be involved in litigation; borrow money; and use a seal on behalf of the corporation to verify documents. See Utah Code Ann. § 16-7-6 (1953).

What is the purpose of forming a corporation sole?

"Corporations sole may be formed for acquiring, holding or disposing of church or religious society property for the benefit of religion, for works of charity and for public worship." Utah Code Ann. § 16-7-1 (1953).

Who can form a corporation sole?

"Any person who is the archbishop, bishop, president, trustee in trust, president of stake, president of congregation, overseer, presiding elder, or clergyman of any church or religious conformity with the constitution, canons, rites, regulations, or discipline of such church or religious society, and in whom is vested the legal title to its property." Utah Code Ann. § 16-7-2 (1985).

What are the requirements for articles of incorporation?

"The articles of incorporation shall specify:

- (1) The name of the corporation by which it shall be known.
- (2) The object of the corporation.
- (3) The estimated value of the property at the time of the making of articles of incorporation.
- (4) The title of the person making such articles." Utah Code Ann. § 16-7-3 (1953).

CHAPTER 7
CORPORATIONS SOLE

Section

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16-7-1. Formation - Purposes.

Statute text

Corporations sole may be formed for acquiring, holding or disposing of church or religious society property for the benefit of religion, for works of charity and for public worship, in the manner hereinafter provided.

History

History: L. 1901, ch. 80, § 1; 1903, ch. 73, § 1; C.L. 1907, § 350x; C.L. 1917, § 930; R.S. 1933 & C. 1943, 18-7-1.

Annotations

COLLATERAL REFERENCES

Am. Jur. 2d. - 18 Am. Jur. 2d Corporations § 29.

C.J.S. - 18 C.J.S. Corporations § 28.

16-7-2. Articles of incorporation - Execution - Filing.

Statute text

Any person who is the archbishop, bishop, president, trustee in trust, president of stake, president of congregation, overseer, presiding elder, or clergyman of any church or religious society who has been duly chosen, elected, or appointed in conformity with the constitution, canons, rites, regulations, or discipline of such church or religious society, and in whom is vested the legal title to its property, may make and subscribe articles of incorporation, acknowledge the same before some officer authorized to take acknowledgments, and file the original articles with the Division of Corporations and Commercial Code; he shall retain a copy of these articles in his possession.

History

History: L. 1901, ch. 80, § 2; 1903, ch. 73, § 2; C.L. 1907, § 350x1; C.L. 1917, § 931; R.S. 1933 & C. 1943, 18-7-2; L. 1984, ch. 66, § 76; 1985, ch. 178, § 25.

16-7-3. Contents of articles of incorporation.

Statute text

The articles of incorporation shall specify:

- (1) The name of the corporation by which it shall be known.
- (2) The object of the corporation.
- (3) The estimated value of the property at the time of the making of articles of incorporation.
- (4) The title of the person making such articles.

History: L. 1901, ch. 80, § 3; 1903, ch. 73, § 3; C.L. 1907, § 350x2; L. 1917, ch. 48, § 1; C.L. 1917, § 932; R.S. 1933 & C. 1943, 18-7-3.

Annotations

COLLATERAL REFERENCES

A.L.R. - Right of charitable or religious association or corporation to protection against use of same or similar name by another, 37 A.L.R.3d 277.

16-7-4. Certified copies of articles as evidence.

Statute text

The articles of incorporation or a certified copy of those filed and recorded with the Division of Corporations and Commercial Code shall be evidence of the existence of such corporation.

History: L. 1901, ch. 80, § 7; 1903, ch. 73, § 7; C.L. 1907, § 350x6; C.L. 1917, § 936; R.S. 1933 & C. 1943, 18-7-4; L. 1984, ch. 66, § 77.

16-7-5. Amendments of articles of incorporation.

Statute text

Any corporation so formed shall have power from time to time to alter or amend its articles of incorporation; such amendment shall be made by the corporation sole and executed by the same person who executed the original articles of incorporation or by his successor in office, and shall be filed in the same manner as is provided for the filing of the original articles.

History: L. 1901, ch. 80, § 3; 1903, ch. 73, § 3; C.L. 1907, § 350x2; L. 1917, ch. 48, § 1; C.L. 1917, § 932; R.S. 1933 & C. 1943, 18-7-5.

16-7-6. Powers of corporations sole.

Statute text

Upon making and filing articles of incorporation as herein provided the person subscribing the same and his successor in office, by the name or title specified in the articles, shall thereafter be deemed and is hereby created a body politic and a corporation sole, with perpetual succession, and shall have power:

- (1) To acquire and possess, by donation, gift, bequest, devise or purchase, and to hold and maintain, property, real, personal and mixed; and to grant, sell, convey, rent or otherwise dispose of the same as may be necessary to carry on or promote the objects of the corporation.
- (2) To borrow money and to give written obligations therefor, and to secure the payment thereof by mortgage or other lien upon real or personal property, when necessary to promote such objects.
- (3) To contract and be contracted with.
- (4) To sue and be sued.

(5) To plead and be impleaded in all courts of justice.

(6) To have and use a common seal by which all deeds and acts of such corporation may be authenticated.

History: L. 1901, ch. 80, §§ 4, 5; 1903, ch. 73, §§ 4, 5; C.L. 1907, §§ 350x3, 350x4; C.L. 1917, §§ 933, 934; R.S. 1933 & C. 1943, 18-7-6.

16-7-7. Right to act without authorization from members - Sale of property.

Statute text

Any corporation sole created under this chapter, and any such archbishop, bishop, president, trustee in trust, president of stake, president of congregation, overseer, presiding elder or clergyman of the state of Utah, who holds the title to trust property for the use and benefit of any church or religious society and who is not so incorporated, unless the articles of incorporation or deed under which such corporation or individual trustee holds such property provides otherwise, shall have power without any authority or authorization from the members of such church or religious society to mortgage, exchange, sell and convey the same; and any such corporation sole, or individual trustee residing within this state may hold title to property, real or personal, which is situated in any other state or jurisdiction; which holding shall be subject to the same conditions, limitations, powers and rights and with the same trusts, duties and obligations in regard to the property that like property is held for such purposes in this state.

History: C.L. 1907, § 350x9, added by L. 1917, ch. 48, § 1; C.L. 1917, § 939; R.S. 1933 & C. 1943, 18-7-7.

Annotations

Cross-References. - Fiduciaries and trusts, Title 22.

16-7-8. Execution of corporate instruments - Seal - Authority of agents - Revocation of authority.

Statute text

All deeds and other instruments of writing shall be made in the name of the corporation, signed by the person representing the corporation in the official capacity designated in the articles of incorporation, or by a duly authorized agent or agents designated and named in a certificate filed by such corporation in the office of the Division of Corporations and Commercial Code, and sealed with the seal of the corporation; an impression of which seal shall be filed with the Division of Corporations and Commercial Code. The authority of any agent or agents designated as herein provided shall continue until revoked. A corporation sole designating an agent or agents to sign deeds and instruments of writing by certificate may revoke such authority by filing a notice of revocation of authority with the Division of Corporations and Commercial Code.

History: L. 1901, ch. 80, § 6; 1903, ch. 73, § 6; C.L. 1907, § 350x5; C.L. 1917, § 935; R.S. 1933 & C. 1943, 18-7-8; L. 1947, ch. 21, § 1; 1984, ch. 66, § 78.

16-7-9. Succession in event of death, resignation or removal of incumbent.

Statute text

In the event of the death or resignation of any such archbishop, bishop, president, trustee in trust, president of stake, president of congregation, overseer, presiding elder or clergyman, being at the time a corporation sole, or of his removal from office by the person or body having authority to remove him, his successor in office, as such corporation sole, shall be vested with the title to any and all property held by his predecessor as such corporation sole, with like power and authority over the same and subject to all the legal liabilities and obligations with reference thereto. Such successor shall file in the office of the county recorder of each county wherein any of such real property is situated a certified copy of his commission, certificate or letter of election or appointment.

History: L. 1903, ch. 73, § 8; C.L. 1907, § 350x7; C.L. 1917, § 937; R.S. 1933 & C. 1943, 18-7-9.

16-7-10. Death of bishop, trustee, not incorporated - Succession to property.

Statute text

In case of the death, resignation or removal of any such archbishop, bishop, president, trustee in trust, president of stake, president of congregation, overseer, presiding elder or clergyman who at the time of his death, resignation or removal was holding the title to trust property for the use or benefit of any church or religious society, and was not incorporated as a corporation sole, the title to any and all such property held by him, of every nature and kind, shall not revert to the grantor nor vest in the heirs of such deceased person, but shall be deemed to be in abeyance after such death, resignation or removal until his successor is duly appointed to fill such vacancy, and upon the appointment of such successor the title to all the property held by his predecessor shall at once, without any other act or deed, vest in the person appointed to fill such vacancy.

History: L. 1903, ch. 73, § 9; C.L. 1907, § 350x8; L. 1917, ch. 48, § 1; C.L. 1917, § 938; R.S. 1933 & C. 1943, 18-7-10.

16-7-11. Fees for filing documents and issuing certificates.

Statute text

The division shall charge and collect a fee determined by it pursuant to Section 63-38-3.2 for:

- (1) filing articles of incorporation of a corporation sole and issuing a certificate of incorporation;
- (2) filing articles of amendment and issuing a certificate of amendment;
- (3) issuing each additional certificate of incorporation or amendment;
- (4) filing a certificate of authorized agent and issuing the agent's certificate;
- (5) filing a revocation of authority;
- (6) furnishing a certified copy of any document, instrument, or paper relating to a corporation sole and affixing its seal;
- (7) issuing a certificate of dissolution; and
- (8) issuing a certificate of merger or consolidation.

History: C. 1953, 16-7-11, enacted by L. 1963, ch. 18, § 1; 1984, ch. 66, § 79; 1984 (2nd S.S.), ch. 15, § 33; 1985, ch. 178, § 26; 1993, ch. 48, § 2; 1994, ch. 313, § 16.

Annotations

Amendment Notes. - The 1993 amendment, effective May 3, 1993, substituted "division" for "Division of Corporations and Commercial Code" in the introductory language, added Subsection (8), and made stylistic changes.

The 1994 amendment, effective May 2, 1994, substituted "Section 63-38-3.2" for "Subsection 63-38-3(2)" in the introductory language of the section.

16-7-12. Dissolution of corporation sole.

Statute text

(1) A corporation sole may be dissolved and its affairs wound up voluntarily by filing with the Division of Corporations and Commercial Code articles of dissolution, fully executed and signed under penalty of perjury, by the chief officer of the corporation. If any corporation sole ceases to have assets, has failed to function, or desires to terminate its existence, the articles of dissolution may be filed by any officer of the corporation authorized to administer the affairs and property of the corporation.

(2) An original and a copy of the articles of dissolution shall be submitted to the Division of Corporations and Commercial Code. If it conforms to law, the division shall file it and issue a certificate of dissolution. After the issuance of this certificate, the corporation shall cease to carry on business, except for the purpose of adjusting and winding up its affairs.

(3) The articles of dissolution shall set forth:

(a) the name of the corporation;

(b) the reason for its dissolution or winding up;

(c) that dissolution of the corporation has been duly authorized by the organization governed by the corporation sole;

(d) the names and addresses of the persons who are to supervise the winding up of the affairs of the corporation;

(e) that all debts, obligations, and liabilities of the corporation sole have been paid and discharged or that adequate provision has been made therefor;

(f) that all the remaining property and assets of the corporation sole have been transferred, conveyed, or distributed in accordance with the purposes of Section 16-7-1; and

(g) that there are no suits pending against the corporation sole in any court, or that adequate provision has been made for the satisfaction of any judgment, order, or decree which may be entered against it in any pending suit.

History: C. 1953, 16-7-12, enacted by L. 1985, ch. 178, § 27.

16-7-13. Merger and consolidation.

Statute text

(1) As long as the surviving corporation qualifies for tax exempt status under Internal Revenue Code Section 501(c)(3), any corporation organized under this chapter may merge with one or more domestic or foreign corporations organized or authorized to do business in this state under this title, or with one or more nonprofit domestic or foreign corporations organized or authorized to do business in this state under this title.

(2) (a) Articles of merger or consolidation shall be adopted by the appropriate incorporator or the successor to an incorporator as described in Section 16-7-2. If there is no such incorporator or successor, the articles shall be signed by the officer or official authorized to administer the affairs and property of the corporation according to the practices and procedures of the church, denomination, or religious society.

(b) The articles of merger or consolidation shall be adopted by any merging or consolidating corporation organized under Title 16, Chapter 6, Utah Nonprofit Corporation and Cooperative Association Act, as provided in Section 16-6-56.

(3) The effect of a merger or consolidation under this section is the same as provided in Section 16-6-59.

History

History: C. 1953, 16-7-13, enacted by L. 1993, ch. 48, § 3.

Annotations

Federal Law. - The federal Internal Revenue Code, cited in Subsection (1), is Title 26 of the U.S. Code.

Effective Dates. - Laws 1993, ch. 48 became effective on May 3, 1993, pursuant to Utah Const., Art. VI, Sec. 25.

16-7-14. Restatement of articles of incorporation.

Statute text

(1) A corporation sole organized under this chapter may restate its articles of incorporation in the same manner allowed nonprofit corporations under Section 16-6-53.5.

(2) The restated articles shall be adopted on behalf of the corporation by the appropriate incorporator or the successor to an incorporator as described in Section 16-7-2. If there is no such incorporator or successor, the articles shall be signed by the officer or official authorized to administer the affairs and property of the corporation according to the practices and procedures of the church, denomination, or religious society.

History: C. 1953, 16-7-14, enacted by L. 1993, ch. 48, § 4.

Annotations

Effective Dates. - Laws 1993, ch. 48 became effective on May 3, 1993, pursuant to Utah Const., Art. VI, Sec. 25.

Articles of Incorporation of the Corporation of the Presiding Church Bishop.

United States of America,

State of Utah ss.

County of Salt Lake

I, the undersigned, having been duly chosen and appointed President Bishop of, in conformity with the rites, regulations and discipline of the Church, being desirous of forming a corporation for the purpose of acquiring, holding and disposing of Church or religious society property, for the benefit of religion, for works of charity and for public worship, under the pursuant to the provisions of Chapter 2, Title 14, of the Compiled Laws of Utah, 1907, on "Churches and Religious Societies," and all acts amendatory thereof and supplementary thereto for that purpose do hereby make and subscribe, in duplicate, the following:

Articles of Incorporation:

First

The name of this corporation shall be the "Corporation of the Presiding Bishop of"

Second

The object of this corporation shall be to acquire, hold and dispose of such real and personal property as may be conveyed to said corporation for the benefit of the members of the Church, a religious society, for works of charity and for public worship.

Third

The estimated value of the property of which I hold the legal title for the purpose aforesaid, at the time of making these Articles of Incorporation, is Sixteen Thousand Dollars.

Fourth

The title of the person making these Articles of Incorporation is "Presiding Bishop of"

Fifth

The corporate seal shall contain the words, "Corporation of the Presiding Bishop of", and an impression thereof as hereto affixed.

Presiding Bishop of

State of Utah

ss.

County of Salt Lake

On this _____ day of July, A.D. 1916, before me _____,
a notary public in and for said County, personally appeared Charles W. Nibley who is known to me to be the person whose name is subscribed to the foregoing instrument as Presiding Bishop of, and duly acknowledged to me that he executed the same as such Bishop.

Notary Public

My commission expires _____.

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